

By Blake Hyfield

IT AIN'T OVER 'TILL IT'S OVER FOR THE "BLUE WATER NAVY"

A federal appeals court in Washington sided January 29th with thousands of Vietnam War veterans who were stationed offshore during the war and developed health problems linked to exposure to the toxic herbicide Agent Orange. The U.S. Court of Appeals for the Federal Circuit ruled overwhelmingly for these sailors, finding they are eligible for the same disability benefits as those who put boots on the ground or patrolled Vietnam's inland rivers.

Under current VA Department rules, the blue water veterans can receive medical care for their illnesses through VA. But to receive disability benefits — worth up to several thousand dollars a month — they must prove that their ailments are directly connected to toxic exposure while on duty. That's not the case for other Vietnam veterans, who are presumed to have been exposed to Agent Orange and other defoliants known to cause serious and rare cancers if they had "boots on the ground". For example, while a veteran who served on the shoreline could receive disability payouts after contracting Parkinson's Disease or prostate cancer, another vet who served on a ship a few miles away would have to provide evidence of direct contact with hazardous chemicals. Advocates have said that, given the time that has passed since the war, obtaining such proof is impossible and unfair. In their ruling, the federal judges agreed. "These statutes cast no doubt on our conclusion that, by using the formal term 'Republic of Vietnam,' Congress unambiguously referred, consistent with uniform international law, to both its landmass and its 12-nautical-mile territorial sea," the ruling states. Advocates for the blue water sailors point to studies that show exposure to Agent Orange occurred through contaminated water funneled into ships' distillation systems and used for drinking, laundry and cleaning. Much of the spraying was on low-lying swamps of the Mekong River Delta that flows into the South China Sea, where they were stationed.

The 9-to-2 decision reverses a decade-old ruling by the court and applies to an estimated 90,000 veterans nationwide. A court majority said Congress clearly intended to extend benefits to sailors who were stationed in the territorial seas and are known as "blue water" Navy veterans. Recent legislation that would have awarded presumptive status to the blue water veterans was blocked by a small group of senators at the end of last year after the House had voted unanimously in favor of it earlier, disappointing advocates who saw the legislative momentum as their best chance for a victory in years. Now, instead of granting the benefits to veterans, lawmakers may be forced to scramble new bills to cover the cost of the court-ordered awards.

If VA officials opt not to appeal the decision to the Supreme Court in the next 90 days — or if the court decides not to hear the case — the result means that blue water veterans could see disability payouts as early as this year. In a statement, VA spokesman Curt Cashour said the department is reviewing this decision and "will determine an appropriate response." Congressional Budget Office officials had estimated that awarding the benefits to the blue water veterans could total about \$1.1 billion over 10 years, but VA officials have insisted the total is closer to \$5.5 billion. Disagreements over whether to use new home loan fees to pay for the costs stalled the previous legislation. If the court order stands, VA will be forced to cover the costs regardless of whether an offset is agreed upon, a potential drain on the department's annual budget. In a statement, Senate chairman Johnny Isakson, R-Ga., said that he was pleased with the court decision and would work closely with VA on the next steps.

Note: This article based on information provided in the Washington Post and Military Times websites.